

1 CALDWELL LESLIE & PROCTOR, PC  
JOAN MACK, State Bar No. 180451  
2 *mack@caldwell-leslie.com*  
PUNEET V. KAKKAR, State Bar No. 259816  
3 *kakkar@caldwell-leslie.com*  
725 South Figueroa Street, 31st Floor  
4 Los Angeles, California 90017-5524  
Telephone: (213) 629-9040  
5 Facsimile: (213) 629-9022

6 Attorneys for PARAMOUNT PICTURES  
CORPORATION  
7  
8

9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**  
11

12 PRINCESS SAMANTHA KENNEDY,  
ADAM CLAYTON URICH,

13 Plaintiffs,

14 v.

15 PARAMOUNT PICTURES  
16 CORPORATION,

17 Defendant.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 12-CV-0372-WQH WMc

Honorable William Q. Hayes

**NOTICE OF REQUEST AND  
REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF  
DEFENDANT PARAMOUNT  
PICTURES CORPORATION'S  
MOTION TO DISMISS FIRST  
AMENDED COMPLAINT;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION  
OF PUNEET V. KAKKAR &  
EXHIBITS THERETO**

**Date: December 17, 2012**

**Time: 11:00 a.m.**

**Place: Courtroom 4**

**[NO ORAL ARGUMENT UNLESS  
REQUESTED BY THE COURT]**

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that Defendant Paramount Pictures Corporation  
3 (“Paramount”), by and through its attorneys of record, hereby requests that the Court  
4 take judicial notice of the following documents, which are attached as Exhibits 1-8  
5 to the Declaration of Puneet V. Kakkar, pursuant to Federal Rule of Evidence 201  
6 and supporting case law:

- 7 • **Exhibit 1:** A true and correct copy of the Docket from *Samantha*  
8 *Kennedy v. Paramount Pictures Corporation, et al.*, United States  
9 District Court for the Southern District of California, Case No. 3:95-cv-  
10 1954-K, downloaded from the Court’s PACER website (the “*Forrest*  
11 *Gump* Action”).
- 12 • **Exhibit 2:** A true and correct copy of the Amended Complaint in the  
13 *Forrest Gump* Action, downloaded from the Court’s PACER website.  
14 The Amended Complaint is filed as Document 6 on the docket of the  
15 *Forrest Gump* Action and was also filed as an Exhibit in support of  
16 Defendants’ Motion for Summary Judgment in the *Forrest Gump*  
17 Action.
- 18 • **Exhibit 3:** A true and correct copy of the Memorandum of Points and  
19 Authorities in Support of Summary Judgment filed by Defendants  
20 Paramount Pictures Corporation, Viacom, Inc., and Blockbuster  
21 Videos, Inc. in the *Forrest Gump* Action, downloaded from the Court’s  
22 PACER website. The Memorandum of Points and Authorities is filed  
23 as Document 31 on the docket of the *Forrest Gump* Action.
- 24 • **Exhibits 4, 5, and 6:** True and correct copies of Plaintiff Princess  
25 Samantha Kennedy’s copyrighted works that are referenced in the First  
26 Amended Complaint in this action, which were produced by Plaintiff  
27 Princess Samantha Kennedy in the *Forrest Gump* Action, were filed in  
28 support of Defendants’ Motion for Summary Judgment in the *Forrest*

1           *Gump* Action, and were downloaded from the Court's PACER website.  
2           These Exhibits were filed as part of Documents 38 and 39 on the  
3           docket of the *Forrest Gump* Action.

- 4           •   **Exhibit 7:** A true and correct copy of the Order dated May 13, 1997,  
5           by the Honorable Judith Keep in the *Forrest Gump* Action,  
6           downloaded from the Court's PACER website. The Order was filed as  
7           Document 56 on the docket of the *Forrest Gump* Action.
- 8           •   **Exhibit 8:** A copy of the publicly available Blu-Ray + DVD + Digital  
9           Copy of *Titanic*, which is referenced in the First Amended Complaint  
10          in this action.

11          This Request is based on this Notice of Request and Request for Judicial  
12          Notice, the accompanying Memorandum of Points and Authorities in support  
13          thereof, the attached Declaration of Puneet V. Kakkar, all of the pleadings and other  
14          documents on file in this case, all other matters of which the Court may take judicial  
15          notice, and any further argument or evidence that may be received by the Court at  
16          the hearing.

17  
18       DATED: November 13, 2012

Respectfully submitted,

19                                   CALDWELL LESLIE & PROCTOR, PC  
20                                   JOAN MACK

21  
22  
23                                   By \_\_\_\_\_/s/\_\_\_\_\_  
24   JOAN MACK  
25                                   Attorneys for PARAMOUNT PICTURES  
26                                   CORPORATION  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Pursuant to Federal Rule of Evidence 201 and accompanying case law, Defendant Paramount Pictures Corporation (“Paramount”) respectfully requests that the Court take judicial notice of the documents attached as Exhibits 1-7 to the Declaration of Puneet V. Kakkar (“Kakkar Decl.”). The documents are documents from the online docket in *Kennedy v. Paramount, et al.*, United States District Court for the Southern District of California, Case No. 3:95-cv-1954-K and a publicly available DVD referred to in the First Amended Complaint in this matter whose authenticity no party questions.

**II. LEGAL FRAMEWORK**

Rule 201 of the Federal Rules of Evidence permits courts to take judicial notice of generally known matters and readily verifiable facts that are not subject to reasonable dispute. Fed. R. Evid. 201(b). Pursuant to Rule 201, courts may take judicial notice of matters in the public domain. *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010), *cert. denied*, No. 09-1254, 2011 WL 2518833 (Sup. Ct. June 27, 2011). In addition, courts may take judicial notice of readily verifiable facts. *See, e.g., O’Toole v. Northrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th Cir. 2007) (“It is not uncommon for courts to take judicial notice of factual information found on the world wide web.”). Courts may take judicial notice of the filing of court documents in other actions. *Rothman v. Gregor*, 220 F.3d 81, 92 (2d Cir. 2000); *Rose v. Beverly Health & Rehab. Servs., Inc.*, 356 B.R. 18, 23 (E.D. Cal. 2006), *aff’d.*, 295 F.Appx. 142 (9th Cal. 2008).

In copyright infringement actions, courts may take judicial notice of the asserted copyrighted works and the allegedly infringing works that are referred to in the complaint and whose authenticity no party questions. *See, e.g., Campbell v. Walt Disney Co.*, 718 F. Supp. 2d 1108, 1112 n.3 (N.D. Cal. 2010) (taking judicial notice of plaintiff’s written screenplay and defendant’s motion picture, both of

1 which were referred to in the complaint); *Zella v. E.W. Scripps Co.*, 529 F. Supp. 2d  
2 1124, 1128-29 (C.D. Cal. 2007) (taking judicial notice of DVD copies of allegedly  
3 infringing works referred to in complaint).

### 4 **III. JUDICIAL NOTICE IS APPROPRIATE HERE**

5 Exhibits 1 through 8 can be broken down into two categories, each of which  
6 is readily subject to judicial notice: (1) documents in the docket of this Court and  
7 (2) a DVD which is referred to in the First Amended Complaint.

8 The contents of this Court's public docket are readily verifiable and generally  
9 known. Thus, judicial notice of the docket of this Court in Case No. 3:95-cv-1954-  
10 K, the 1995 *Forrest Gump* Action (attached to the Kakkar Decl. as Exhibit 1) is  
11 appropriate here. The information in the docket is "capable of accurate and ready  
12 determination by resort to sources whose accuracy cannot reasonably be  
13 questioned." Fed. R. Evid. 201(b).

14 Similarly, public filings made to this Court and other tribunals are readily  
15 verifiable, generally known, and not subject to reasonable dispute. *See Rothman*,  
16 220 F.3d at 92; *5-Star Mgmt., Inc. v. Rogers*, 940 F. Supp. 512, 518 (E.D.N.Y.  
17 1996). As a result, judicial notice of previous filings made to this Court (attached to  
18 the Kakkar Decl. as Exhibits 2, 3, 4, 5, and 6) is warranted here.

19 Judicial orders are also readily verifiable and generally known, and are  
20 commonly the subject of judicial notice. *See, e.g., Day v. Moscow*, 955 F.2d 807,  
21 811 (2d Cir. 1992) (taking judicial notice of "all relevant facts [that] are shown by  
22 the court's own records"). Accordingly, judicial notice of an order from this Court  
23 (attached to the Kakkar Decl. as Exhibit 7) is appropriate here.

24 Finally, judicial notice is also appropriate of records that are referred to in a  
25 pleading but not attached, and in particular, allegedly infringing works in copyright  
26 cases. *See, e.g., Campbell*, 718 F. Supp. 2d at 1112 n.3 (N.D. Cal. 2010); *Zella*,  
27 529 F. Supp. 2d at 1128-29. Accordingly, judicial notice of the Blu-Ray + DVD +  
28

1 Digital Copy of *Titanic* (referred to in Paragraph 13 of the First Amended  
2 Complaint and attached to the Kakkar Decl. as Exhibit 8) is appropriate.

3 **IV. CONCLUSION**

4 For the foregoing reasons, Paramount respectfully requests that the Court take  
5 judicial notice of Exhibits 1-8.

6  
7 DATED: November 13, 2012

Respectfully submitted,

8 CALDWELL LESLIE & PROCTOR, PC  
9 JOAN MACK

10  
11 By \_\_\_\_\_/s/

12 JOAN MACK

13 Attorneys for PARAMOUNT PICTURES  
14 CORPORATION

**DECLARATION OF PUNEET V. KAKKAR**

I, PUNEET V. KAKKAR, declare and state as follows:

1. I am an attorney admitted to practice in the State of California and a member of the bar of this Court. I am an attorney at the law firm of Caldwell Leslie & Proctor, PC, counsel for Paramount Pictures Corporation (“Paramount”). I submit this declaration in support of Paramount’s Motion to Dismiss First Amended Complaint. I have personal knowledge of the facts stated herein, and could and would testify competently thereto if called as a witness in this matter.

2. Attached hereto as Exhibit “1” is a true and correct copy of the Docket from *Samantha Kennedy v. Paramount Pictures Corporation, et al.*, United States District Court for the Southern District of California, Case No. 3:95-cv-1954-K, downloaded from the Court’s PACER website on November 8, 2012 (the “*Forrest Gump* Action”).

3. Attached hereto as Exhibit “2” is a true and correct copy of the Amended Complaint filed in the *Forrest Gump* Action, downloaded from the Court’s PACER website. The Amended Complaint is identified as Document 6 on the docket of the *Forrest Gump* Action but is not available on the Court’s PACER website. However, the Amended Complaint attached hereto was attached as Exhibit “A” to the Declaration of Rex S. Heinke in support of the Defendants’ Motion for Summary Judgment in the *Forrest Gump* Action. Attached hereto as Exhibit “9” is the Declaration of Rex Heinke, without exhibits, affirming that Exhibit “A” to his declaration is a true and correct copy of the Amended Complaint.

4. Attached hereto as Exhibit “3” is a true and correct copy of the Memorandum of Points and Authorities in Support of Summary Judgment filed by Defendants Paramount Pictures Corporation, Viacom, Inc., and Blockbuster Videos, Inc. (“Defendants’ Summary Judgment Motion”) in the *Forrest Gump* Action. The

1 Defendants' Summary Judgment Motion was filed as Document 31 on the docket of  
2 the *Forrest Gump* Action and downloaded from the Court's PACER website.

3 5. Attached hereto as Exhibits "4," "5," and "6" are true and correct  
4 copies of Plaintiff Princess Samantha Kennedy's copyrighted works with  
5 Registration Nos. TXU000464805, PAu001548413, and TXu000583376, bearing  
6 Bates Numbers P00199-301, 302-339, and 413-837, which were produced by  
7 Plaintiff Samantha Kennedy in the *Forrest Gump* Action, as identified in  
8 Defendants' Summary Judgment Motion in the *Forrest Gump* Action at page 1  
9 footnote 2. These Exhibits were filed as part of Documents 38 and 39 on the docket  
10 of the *Forrest Gump* Action. A true and correct copy of the Defendants' Summary  
11 Judgment Motion is attached hereto as Exhibit "3." A true and correct copy of the  
12 Declaration of Rex Heinke, without exhibits, which avers that the copyrighted  
13 works were produced by Plaintiff Samantha Kennedy, is attached hereto as Exhibit  
14 "9."

15 6. Attached hereto as Exhibit "7" is a true and correct copy of an Order,  
16 dated May 13, 1997, signed by the Honorable Judith Keep in the *Forrest Gump*  
17 Action. The order was filed as Document 56 on the docket of the *Forrest Gump*  
18 Action.

19 7. Lodged herewith as Exhibit "8" is a true and correct copy of *Titanic*, in  
20 the publicly available Blue-Ray + DVD + Digital Copy edition, which is referenced  
21 in the First Amended Complaint in this matter.


22  
23  
24  
25  
26 //

27 //

28 //



I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

  
PUNEET V. KAKKAR

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 725 South Figueroa Street, 31st Floor, Los Angeles, California 90017-5524.

On November 13, 2012, I served true copies of the following document(s) described as **NOTICE OF REQUEST AND REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT PARAMOUNT PICTURES CORPORATION'S MOTION TO DISMISS FIRST AMENDED COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF PUNEET V. KAKKAR & EXHIBITS THERETO** on the interested parties in this action as follows:

Princess Samantha Kennedy  
Adam Clayton Urich  
777 Seacoast Drive, No. N  
Imperial Beach, CA 91932

**BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on November 13, 2012, at Los Angeles, California.

\_\_\_\_\_  
/S/  
Mirela Popescu